

House Engrossed

finer; fees; assessments; restitution; nonpayment

State of Arizona
House of Representatives
Fifty-seventh Legislature
Second Regular Session
2026

HOUSE BILL 2825

AN ACT

AMENDING SECTION 13-810, ARIZONA REVISED STATUTES; RELATING TO FINES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 13-810, Arizona Revised Statutes, is amended to
3 read:

4 13-810. Consequences of nonpayment of fines, surcharges,
5 fees, assessments, restitution or incarceration
6 costs; civil default determination; definition

7 A. In addition to any other remedy provided by law, including a
8 writ of execution or other civil enforcement, if a defendant who is
9 sentenced to pay a fine, a surcharge, a fee, an assessment or
10 incarceration costs defaults in the payment of the fine, surcharge, fee,
11 assessment or incarceration costs or of any installment as ordered, the
12 court, on motion of the prosecuting attorney or on its own motion, ~~shall~~
13 ~~require the defendant to show cause why the defendant's default should not~~
14 ~~be treated as contempt and~~ may issue a summons ~~or a warrant of arrest~~ for
15 the defendant's appearance **AT A HEARING TO DETERMINE THE DEFENDANT'S**
16 **ABILITY TO PAY THE PREVIOUSLY ORDERED FINE, SURCHARGE, FEE, ASSESSMENT OR**
17 **INCARCERATION COSTS. THE COURT SHALL NOT ISSUE A WARRANT OF ARREST FOR THE**
18 **DEFENDANT'S FAILURE TO APPEAR AT THIS HEARING.**

19 B. In addition to any other remedy provided by law, including a
20 writ of execution or other civil enforcement, if a defendant who is
21 ordered to pay restitution defaults in the payment of the restitution or
22 of any installment as ordered, the court, on motion of the prosecuting
23 attorney, on petition of any person entitled to restitution pursuant to a
24 court order or on its own motion, ~~shall require the defendant to show~~
25 ~~cause why the defendant's default should not be treated as contempt and~~
26 may issue a summons ~~or a warrant of arrest~~ for the defendant's appearance
27 **AT A HEARING TO DETERMINE THE DEFENDANT'S ABILITY TO PAY THE PREVIOUSLY**
28 **ORDERED RESTITUTION. THE COURT SHALL NOT ISSUE A WARRANT OF ARREST FOR**
29 **THE DEFENDANT'S FAILURE TO APPEAR AT THIS HEARING.**

30 ~~C. In addition to any other remedy provided by law, including a~~
31 ~~writ of execution or other civil enforcement, the court, on receipt of a~~
32 ~~petition and issuance of an order to show cause, has jurisdiction to~~
33 ~~preserve rights over all restitution liens entered pursuant to section~~
34 ~~13-806, subsection B, and perfected pursuant to section 13-806,~~
35 ~~subsection E.~~

36 **C. IF THE COURT ORDERS A HEARING FOR NONPAYMENT OF A FINE, A**
37 **SURCHARGE, A FEE, AN ASSESSMENT, RESTITUTION OR INCARCERATION COSTS AND**
38 **THE DEFENDANT FAILS TO APPEAR, THE COURT SHALL NOT ISSUE A WARRANT OF**
39 **ARREST BUT MAY ENTER A CIVIL DEFAULT DETERMINATION OF NONPAYMENT. ON**
40 **ENTRY OF THE CIVIL DEFAULT DETERMINATION, THIS STATE OR THE PERSON**
41 **ENTITLED TO RESTITUTION MAY PURSUE ANY CIVIL COLLECTION REMEDY WITHOUT**
42 **FURTHER COURT ORDER.**

43 D. At any hearing ~~on the order to show cause~~ **FOR NONPAYMENT OF A**
44 **FINE, A SURCHARGE, A FEE, AN ASSESSMENT, RESTITUTION OR INCARCERATION**
45 **COSTS,** the court, the prosecuting attorney or a person entitled to

1 restitution may examine the defendant under oath concerning the
2 defendant's financial condition, employment and assets or on any other
3 matter relating to the defendant's ability to pay restitution.

4 E. If the court finds that the defendant has ~~wilfully failed~~ THE
5 PRESENT ABILITY to pay a fine, a surcharge, a fee, an assessment,
6 restitution or incarceration costs ~~or finds that the defendant has~~
7 ~~intentionally refused to make a good faith effort to obtain the monies~~
8 ~~required for the payment~~, the court shall find that the default
9 ~~constitutes contempt and~~ may do any of the following:

10 ~~1. Order the defendant incarcerated in the county jail until the~~
11 ~~fine, surcharge, fee, assessment, restitution or incarceration costs, or a~~
12 ~~specified part of the fine, surcharge, fee, assessment, restitution or~~
13 ~~incarceration costs, is paid.~~

14 ~~2.~~ 1. Refer the defendant for revocation of probation, parole or
15 community supervision as authorized by law.

16 ~~3.~~ 2. Enter an order pursuant to section 13-812. The levy or
17 execution for the collection of a fine, a surcharge, a fee, an assessment,
18 restitution or incarceration costs does not discharge a defendant who is
19 incarcerated for nonpayment of the fine, surcharge, fee, assessment,
20 restitution or incarceration costs until the amount of the fine,
21 surcharge, fee, assessment, restitution or incarceration costs is
22 collected FOR A CIVIL ENFORCEMENT REMEDY.

23 ~~4.~~ 3. Order the defendant to perform community restitution.

24 F. If the court finds that the ~~default is not wilful and that the~~
25 defendant cannot pay ~~despite sufficient good faith efforts to obtain the~~
26 ~~monies~~, the court may take any lawful action including:

27 1. Modify the manner in which the restitution, fine, surcharge,
28 fee, assessment or incarceration costs are to be paid.

29 2. Enter any reasonable order that would assure compliance with the
30 order to pay.

31 3. ORDER THE DEFENDANT TO PERFORM COMMUNITY RESTITUTION.

32 ~~3.~~ 4. Enter an order pursuant to section 13-812. The levy or
33 execution for the collection of a fine, a surcharge, a fee, an assessment,
34 restitution or incarceration costs does not discharge a defendant
35 incarcerated for nonpayment of the fine, surcharge, fee, assessment,
36 restitution or incarceration costs until the amount of the fine,
37 surcharge, fee, assessment, restitution or incarceration costs is
38 collected FOR A CIVIL ENFORCEMENT REMEDY.

39 G. If a fine, a surcharge, a fee, an assessment, restitution or
40 incarceration costs are imposed on an enterprise it is the duty of the
41 person or persons authorized to make disbursement from the assets of the
42 enterprise to pay them from those assets, ~~and their failure to do so shall~~
43 ~~be held a contempt unless they make the showing required in subsection A~~
44 ~~or B of this section.~~ IF THE PERSON OR PERSONS AUTHORIZED TO MAKE
45 DISBURSEMENT FROM THE ASSETS OF THE ENTERPRISE FAIL TO MAKE THE PAYMENT,

1 THE COURT, ON MOTION OF THE PROSECUTING ATTORNEY, ON PETITION OF ANY
2 PERSON ENTITLED TO RESTITUTION PURSUANT TO A COURT ORDER OR ON ITS OWN
3 MOTION, SHALL REQUIRE THE DEFENDANT TO SHOW CAUSE WHY THE DEFENDANT'S
4 DEFAULT SHOULD NOT BE TREATED AS CONTEMPT.

5 H. If a defendant is sentenced to pay a fine, a surcharge, a fee,
6 an assessment, restitution or incarceration costs, the clerk of the
7 sentencing court, on request, shall make the defendant's payment history
8 available to the prosecutor, victim, victim's attorney, probation
9 department and court without cost.

10 I. ON THE ISSUANCE OF A SUMMONS FOR A HEARING UNDER THIS SECTION,
11 THE COURT SHALL PROVIDE THE DEFENDANT WITH A WRITTEN NOTICE, IN PLAIN
12 LANGUAGE, THAT STATES ALL OF THE FOLLOWING:

13 1. THAT THE PURPOSE OF THE HEARING IS TO DETERMINE WHETHER THE
14 DEFENDANT HAS THE PRESENT ABILITY TO PAY AND HAS WILFULLY REFUSED TO PAY.

15 2. THAT THE DEFENDANT HAS THE RIGHT TO PRESENT EVIDENCE OF
16 FINANCIAL HARDSHIP, INCLUDING ANY EVIDENCE LISTED IN SECTION 13-825.

17 3. THAT NO PERSON MAY BE INCARCERATED SOLELY BECAUSE OF THE
18 PERSON'S INABILITY TO PAY A FINE, A SURCHARGE, A FEE, AN ASSESSMENT,
19 RESTITUTION OR INCARCERATION COSTS DUE TO INDIGENCE.

20 J. A DEFENDANT AGAINST WHOM A CIVIL DEFAULT DETERMINATION HAS BEEN
21 ENTERED MAY MOVE THE COURT TO SET ASIDE THE DETERMINATION AND ANY
22 RESULTING CIVIL ENFORCEMENT REMEDY. THE COURT SHALL STAY PENDING
23 ENFORCEMENT ACTIONS IF THE DEFENDANT DEMONSTRATES THAT THE DEFENDANT DID
24 NOT RECEIVE ACTUAL NOTICE OF THE HEARING, THAT THE DEFENDANT'S FAILURE TO
25 APPEAR WAS DUE TO EXCUSABLE NEGLECT OR CIRCUMSTANCES BEYOND THE
26 DEFENDANT'S CONTROL OR THAT THE DEFENDANT IS INDIGENT AND THE CIVIL
27 ENFORCEMENT REMEDY CREATES AN UNDUE HARDSHIP ON THE DEFENDANT OR THE
28 DEFENDANT'S LEGAL DEPENDENTS. IF A CIVIL DEFAULT DETERMINATION HAS BEEN
29 ENTERED:

30 1. ANY MONIES THAT ARE RECOVERED BY THE STATE PURSUANT TO A VALID
31 CIVIL DEFAULT DETERMINATION SHALL NOT BE RETURNED TO THE DEFENDANT.

32 2. ON SETTING ASIDE A DEFAULT JUDGMENT, THE COURT SHALL SCHEDULE A
33 HEARING PURSUANT TO SUBSECTION A OR B OF THIS SECTION.

34 3. IF THE DEFENDANT FAILS TO APPEAR AT THE NEWLY SCHEDULED HEARING
35 AFTER RECEIVING PROPER NOTICE, THE COURT SHALL IMMEDIATELY REENTER THE
36 CIVIL DEFAULT JUDGMENT, AND THE STATE MAY RESUME ALL CIVIL ENFORCEMENT
37 REMEDIES WITHOUT FURTHER DELAY.

38 4. A DEFENDANT MAY NOT MOVE TO SET ASIDE A SECOND DEFAULT JUDGMENT
39 THAT IS ENTERED WITHIN ONE YEAR OF A PRIOR DEFAULT JUDGMENT FOR THE SAME
40 UNDERLYING OBLIGATION UNLESS THE DEFENDANT PROVES BY CLEAR AND CONVINCING
41 EVIDENCE THAT THE SECOND FAILURE TO APPEAR WAS DUE TO AN EXTRAORDINARY
42 MEDICAL EMERGENCY OR OTHER CATASTROPHIC EVENT.

43 K. FOR THE PURPOSES OF THIS SECTION, "CIVIL ENFORCEMENT REMEDY"
44 INCLUDES ANY OF THE FOLLOWING:

45 1. RESTITUTION LIENS PURSUANT TO SECTION 13-806.

- 1 2. GARNISHMENT PURSUANT TO SECTION 13-812.
- 2 3. PARTICIPATION IN A LIABILITY SETOFF PROGRAM ESTABLISHED PURSUANT
- 3 TO SECTION 42-1122.
- 4 4. THE INTERCEPTION OF WINNINGS PURSUANT TO TITLE 5.
- 5 5. ANY OTHER CIVIL REMEDY THAT IS AUTHORIZED BY LAW FOR THE
- 6 COLLECTION OF A DEBT, JUDGMENT OR MONETARY OBLIGATION, WHETHER CURRENTLY
- 7 EXISTING OR HEREAFTER ENACTED.